

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

GREGORY PERRY,

Plaintiff,

-against-

ORDER

12-CV-5727 (NGG) (MDG)

MORTON PERRY,

Defendant.

-----X

NICHOLAS G. GARAUFIS, United States District Judge.

On November 20, 2012, pro se Plaintiff Gregory Perry brought this diversity action against Defendant Morton Perry. (Compl. (Dkt. 1).) Defendant did not appear in the action. On June 11, 2013, the court received a “Statement Noting a Party’s Death,” which attached a death certificate stating that Defendant had died on April 27, 2013. (Dkt. 14.) Magistrate Judge Marilyn D. Go, pursuant to Federal Rule of Civil Procedure 25(a)(1), directed Plaintiff to bring a motion to substitute a proper party in lieu of deceased Defendant by September 17, 2013. (Sched. Order (Dkt. 15).) Plaintiff did not file a motion for substitution; therefore on March 13, 2014, Judge Go sua sponte issued a Report and Recommendation (“R&R”), recommending that this action be dismissed with prejudice. (R&R (Dkt. 18).) The R&R was posted electronically on the docket, and a copy was sent by mail to Plaintiff. (R&R at 4-5.) To date, Plaintiff has filed nothing with the court since Judge Go’s Scheduling Order.

Plaintiff has not objected to Judge Go’s R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 5 (“Any objections must be filed with the Clerk of the Court, with a copy to Judge Garaufis, on or before March 31, 2014.”) (citations omitted).) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation &

Trailer Serv., Inc., No. 09-CV-2502 (KAM), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010);

La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1).

Finding no clear error, the court ADOPTS IN FULL the R&R. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007).

Accordingly, Plaintiff's action is DISMISSED with prejudice. The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
June 30, 2014

NICHOLAS G. GARAUFIS
United States District Judge